OFFICE OF CONSERVATION

STATE OF LOUISIANA

IN RE:

JOINT MEETING OF

GROUND WATER MANAGEMENT COMMISSION

AND ADVISORY TASK FORCE

REPORT OF MEETING

HELD AT

BATON ROUGE, LOUISIANA

MARCH 20, 2002

OFFICE OF CONSERVATION

STATE OF LOUISIANA

IN RE:

JOINT MEETING OF

GROUND WATER MANAGEMENT COMMISSION

AND ADVISORY TASK FORCE

Report of the public meeting held by the Ground Water Management Commission and Advisory Task Force, State of Louisiana, on March 20, 2002, in Baton Rouge, Louisiana.

COMMISSION MEMBERS IN ATTENDANCE:

Karen Gautreaux, Chairman

Phil Boudreaux, Commissioner of Conservation

Zahir "Bo" Bolourchi, DOTD - Water Resources

William "Bill" Cefalu, Police Jury Association

Richard Durrett, Sparta Groundwater Conservation Dist.

Peggy Gantt, Louisiana Municipal Association

Steve Chustz, DEQ

Brad Spicer, Agriculture & Forestry

Benny Fonetenot, Wildlife & Fisheries

Linda Zaunbrecher, Farm Bureau Member

Len Bahr, Governor's Office of Coastal Affairs

Dean Lowe, Department of Health and Hospitals

AGENDA

I. Call to Order - Karen Gautreaux

II. Ground Water Staff Report, Tony Duplechin

III. Consultant's Report

IV. Ground Water Management Advisory Task Force Committee Reports

V. Old Business: 1.) Confirmation of the February 20, 2002 Commission action on the submission of information on Domestic and Replacement Wells. 2.) Consideration of the extension of the Emergency Rule.

VI. New Business: Consideration of the proposed Permanent Rule.

VII. Public Comments

VIII. Schedule for Next Meeting

IX. Adjourn

JOINT MEETING OF

GROUND WATER MANAGEMENT COMMISSION

AND ADVISORY TASK FORCE

MARCH 20, 2002

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COMMISSIONER GAUTREAUX:

Today we're having, since our orientation I think, the first joint Advisory Task Force and Commission meeting, so welcome to that; the purpose being so that we can have an opportunity to jointly hear our consultant's report which is a little later on the agenda. I guess what I'd like to do is, I'll start, and we can go around and introduce ourselves for the record. I'm Karen Gautreaux from the Governor's office.

MR. FONTENOT:

Benny Fontenot, Wildlife and Fisheries representing John Roussel today.

COMMISSIONER ZAUNBRECHER:

Linda Zaunbrecher representing Louisiana Farm Bureau.

MR. SPICER:

Brad Spicer, Department of Agriculture and Forestry.

COMMISSIONER DURRETT:

Richard Durrett representing the Sparta Ground Water Commission.

COMMISSIONER BOLOURCHI:

Bo Bolourchi, DOTD.

COMMISSIONER BOUDREAUX:

Phil Boudreaux, Office of Conservation.

MR. CHUSTZ:

Steve Chustz, Department of Environmental Quality.

COMMISSIONER CEFALU:

Bill Cefalu representing Police Jury Association.

MR. LOWE:

Dean Lowe sitting in for Dr. Guidry and the Department of Health.

COMMISSIONER GANTT:

Peggy Gantt, Louisiana Municipal Association.

COMMISSIONER BAHR:

Len Bahr, Office of Coastal Affairs.

COMMISSIONER GAUTREAUX:

I would like to also particularly welcome Linda Zaunbrecher back. We're very happy to see her cheery face.

Let's get started with our groundwater staff report. Tony?

MR. DUPLECHIN:

Thank you, Karen. Since our last meeting the staff has received 26 more water well information sheets, and this has brought the total number to 279. Two just cause waivers were issued, one for an agricultural well to an individual and one for a public supply well for the town of Erath. Once again, several forms were received less than 60 days prior to the anticipated well installation date, and the owner of that well had not requested a just cause variance. Six forms were received after the installation, but

these were for monitoring and recovery wells.

As far as the website goes, as I stated last month, the update of the website, two things will always be updated. Those are the transcripts and summaries for the Task Force meeting, summary for the -- I'm sorry, summary for the Task Force meeting, transcript for the Commission meeting and summary along with that, and announcements and agendas for upcoming meetings.

We're currently looking at reworking the front page of the website because it is a little confusing right now. We figure if we could change the way some of the links are, we could have the whole thing on just one screen without having to scroll down.

Members of the Ground Water Management Commission Staff attended several meetings over the past month. On February 22nd I made a presentation to the Louisiana Police Jury Association at their annual meeting in Monroe and talked with them about Act 446, its requirements and the activities of the Ground Water Management Commission. The staff also attended meetings of the Public Supply and Economic subcommittees which were held on March 5th at Baton Rouge Water Works, and I won't go into detail for that meeting, I'll wait and see if their subcommittee has a report on that. I also attended a meeting of the Outreach subcommittee, and here again I'll wait for them to give their report. The news release was finally released by the Department of Natural Resources. It was posted on the website and sent out

to the Louisiana Press Association I believe is the name of it. Final meeting that the Commission staff went to was a meeting of the Technical subcommittee which was held at USGS on March 11. In addition, some of the staff attended a Hydrologic Impact workshop in New Orleans last week.

The staff has also spent considerable time preparing the fiscal and economic impact statement for the legislative fiscal office for the proposed permanent rules that will be considered today. The impact statement was delivered to the fiscal office this morning. Assuming approval of the proposed rule by the Commission, the notice of intent will be delivered to the Office of the State Register by the 10th of next month for inclusion in the April 20th edition of the "Louisiana Register." A time line of important dates for the permanent rule can be found in the Commissioners' packets, and we'll discuss the permanent rules in more detail under new business. That ends my report.

COMMISSIONER GAUTREAUX:

Any questions for Tony on the staff report?

(No response.)

Thank you. Our next item on the agenda is the consultant's report by C.H. Fenstermaker, and I think Raymond Reaux is going to start us off.

MR. REAUX:

Good afternoon. Thank y'all for letting us make another presentation to the Commission. Let me reintroduce the team. I know most of you may have met

us but someone in the audience may not have met us. Today here with Fenstermaker, of course, my name is Raymond Reaux with C.H. Fenstermaker. I have a couple of Fenstermaker employees. On the far end of the table is Mr. Larry Lovas, system analyst and engineer on the project; Brent Hamilton who most of you have met, principal and engineer on the project; and Brent Sonnier here with the Onebane group. He's going to speak in a little bit. I'll tell you about that in a minute. Right directly behind me is Stewart Stover with Hydro Environmental Technologies, hydrogeologist; and Bruce Darling here with LBG-Guyton and Associates, hydrogeologist also. In the back handling the lights is Miss Jessica Corne, a staff engineer. So that's the group we brought today.

I'd like to give you a little bit of an update on where we're at, but before I do that, I want to tell you I'm going to give a little presentation. I'm going to turn it over for presentation by Bruce on adjacent state water planning reports and sort of take a look at what the states around us are doing. Brent Sonnier, again, is going to speak on legal issues associated with your commission. And then finally Brad is going to get up and talk a little bit about the website, the progress we've made, what's out there, and what we intend to put available to the public shortly. My report is going to be on the schedule, and I'm going to get up and flip the switch, if you don't mind.

You're going to have a difficult time reading

this. Most importantly what I tell people, and I say it kiddingly, is the two lines here and the five days here are actually days. This is a schedule that is rather compact. You probably can't read. This is March, April, and May and just a part of June, of which June 15th here is the milestone for submittal of part 1 of the report. Looking at the schedule, we are in this vicinity right here. We have a meeting with you this month in March, and as you all know, we have a meeting May 15th, which would be this milestone here, and May 30th which is this milestone here.

The primary part of showing you this slide, and clearly you can't see any of the dates here or you're going to struggle if you can, is to give you an idea that we have planned the report in office to go through our office three times, a draft, draft, draft, and then of course getting to DNR staff in the vicinity of -- or exactly on April 30th for staff to evaluate. Then we're going to forward it to you guys prior to -- this is your 15th meeting here in May. We're going to get the report to you, available to you prior to your meeting. You'll be able to ask us some questions. Hopefully you will have had time, I know it's a short bit of time, but a little bit of time to ask us some questions, and then when you get down here to the 30th, you can either ask us some additional questions or post some written comments that you would like to have us address to include in the report that obviously we all know as part 1. A pretty condensed schedule as we move forward, but that's kind of the

overview of where we are.

From an agency contact standpoint, we did, like Tony said, meet with the Technical committee on the 11th, last Monday. For your information we've made over 100 contacts with various agencies, of over 70 different agencies; federal, state, universities. All of the committees that were active have been visited with and really have done a comprehensive effort to obtain the data that would be available to build the report on. So we feel we have done our due diligence, and for all intents and purposes, our data collection segment is complete. Still one or two out there, but for all intents and purposes, we're complete, and we're beginning to analyze the data which will obviously be supported by -- will be the support for the report.

Just want to remind you that we are in part 1. We are roughly halfway through as far as our concern. We may be a little past halfway, but a quarter of the report all the way through what you guys are looking for, which is part 1 and part 2. So we just want to kind of keep that in mind.

That is most of what I want to say. The guys are going to get up in a minute. Feel free to ask questions if you'd like. Don't wait until the end because you might not get your question in when you wanted to. Feel free to interact. With that said, I'm going to turn it over to Bruce.

MR. DARLING:

My name is Bruce Darling. I'm a hydrogeologist

and an economist working with LBG-Guyton and Associates. We've had extensive experience in water planning issues in Texas and other states, and what I'm going to do today is to walk you through some of the water planning programs in adjacent states so that members of the Commission and the Task Force can have some idea what other states have done in the area of water planning, why they have done it, and how much money they are actually spending on their water planning programs. This is important for the Commission to know before it makes its recommendation to the Legislature next year.

As part of our work plan here, we've looked at water planning programs in eight states: Arkansas, Mississippi, Texas, Florida, Alabama, Oklahoma, New Mexico, and Utah. We have not completed Alabama yet. That should be completed relatively soon, but the selection of these states was made in order to give you a very good -- as good an idea as possible of the issues that drive water planning, the need for water planning in these states, the approaches that the different states have taken to water planning to address specific water resource issues, the agencies and the degrees of regulatory authority assigned to these agencies, the significance of water rights in the matter of water planning, as well as funding, state level funding to support water planning in these different states.

Today we're going to talk specifically about the water plans in the states of Mississippi, Arkansas and

Texas, and if there are other questions about the other states I'll be glad to address those. Why are we focusing on these today? Well, these states of course are contiguous with Louisiana. Each of these states has adopted a water planning program. Each of these states has got different issues associated with water planning, and because Louisiana shares borders with all these states, it shares surface water resource and ground water resources, it will be necessary in the long run for Louisiana to consider how each one of these states has approached water planning in order to fashion a water plan that is consistent with the needs of the people of Louisiana.

Incidentally, in surveying water plans across the Gulf Coast, we noticed that in all of the states we've looked at here Louisiana is really the only state that has not up to this point adopted a water plan. So it's surrounded by states that have adopted water planning programs, and beyond that, there are a large number of states as well that also have adopted water planning programs.

Among the three states we're going to look at, let's start off with how long their water planning programs have been in place. Arkansas authorized water planning by an act of the Legislature in 1969, but the first water plan was not developed until 1975. There have been updates, the last update I think in 1985. And they are trying to rewrite their water plan right now, or they are making a proposal to rewrite their water plan.

Mississippi initiated water planning in 1985. Their approach is somewhat different. They don't issue an annual report as Arkansas does. In fact, there's no reporting requirement that we could identify in the state of Arkansas.

Texas' current water planning program was initiated in 1997, but water planning in Texas goes back to 1960 -- the first report issued in 1961, largely in response to the major drought that nearly wrecked the state's economy in the 1950s. Since 1961 Texas has issued water plans about every five years, and the current plan right now is for the state to issue water plans on a five-year basis.

What are the issues behind water planning in these states? Well, in Arkansas -- you'll see that there are some common reasons here that the states have embarked on water planning and there are some major differences as well. In Arkansas the state recognized that population growth was placing a great strain on aquifers. In particular, the increased demand led to falling water levels in the major aquifers. So the state decided it had to do something to address what it considered to be critical areas. Really, in Arkansas the water planning process is designed to identify critical areas, although how the state deals with critical areas is somewhat surprising as we'll get into this a little later.

Mississippi, the people at the Mississippi Department of Environment Quality told us that the reasons Mississippi got into this was that they woke

up one day and realized that they really didn't have a firm grasp of their ground water resources, as firm a grasp as they needed in order to make sure that they could devise plans that would promote economic development and also orderly development of groundwater resources.

Texas is a rather complex issue here. Texas is a state that has been -- that has had problems with droughts, severe problems with drought over the years. In the 1950s there was a drought that lasted for nearly seven years which drove many farmers and ranchers out of business, as well in the 1990s there was another six- to seven-year drought that did much the same. Both of those droughts also pushed many cities to the limit. In fact, many cities that were on surface water resources found that they were down to less than one year's supply in their reservoirs. So the state decided they had to do something to address the issue of drought, and also the impact of drought on the state's economy.

Additionally, population growth in Texas was projected to be a major issue. The state's population was projected to grow from 20 million in the year 2000 to 40 million in the year 2050. Texas' plan is on a 50-year basis. And along with that projected population growth and the increased use of water, there was projected shortages in many areas of the state. The state realized that if something were not done to address these issues, specifically to devise strategies to address the need or strategies to make

sure that water is available, that many cities would actually run out of water and economic development in the state would be hurt.

How severe was the drought in Texas? Well, this is an illustration from just a short period of time during what was called the 1998 drought. This was actually the seventh year of an eight-year drought, and you can see it showing the different climatic regions in Texas. The percent of rainfall -- the percent of normal rainfall, and you can see in most areas of Texas that rainfall was 20 percent or less of normal levels. Something that's interesting about Texas here is that in East Texas in Beaumont, average annual rainfall is about 56". As you move west across Texas onto the Edwards Plateau near Austin and San Antonio, average annual rainfall is about 36". And as you get out into the TransPecos region of Texas near El Paso, average annual rainfall is 7". So the state's water resources as you move farther to the west across the state were severely stressed by this drought, and actually even water resources in southeast Texas and east Texas were also stressed by the drought. Many of the reservoirs were down considerably from their full capacity levels.

As I said, it was also the need to do something about minimizing the impact of drought on the state's economy. This is put together by the Texas A&M Agricultural Extension Service. This is an estimate. In just 1998 alone, projected economic losses to the farming sector, and for these commodities right here,

the producer losses were estimated to be $2.1 billion. Statewide the impact was projected to be $5.8 billion. And remember, this was just year seven of an eight-year drought. So these losses were substantial over a long period of time.

Well, what are the different approaches to water planning here? How do they all vary and how are they similar? Arkansas' program is a statewide program, but the focus is on what they call their sustaining aquifers. The state really divides the state up into water basins, and the agency that is in charge of this, the Arkansas Soil and Water Conservation Commission, issues an annual report, an executive summary on the monitoring program, as well as a report on each one of the basins. The system in Arkansas is what I would call a centralized system. It's top down. The water plans come from the Arkansas Soil and Water Conservation Commission, which has a statutory authority to conduct water planning in the state. There is a degree of public interaction or public involvement that is supposed to go on in this, but according to the people I've talked with at the ASWCC, the only time the public really gets involved in a water resource issue is when something ends up in court, or is likely to end up in court.

Mississippi also has a statewide water-planning program. They're trying to set up a system of groundwater districts in the state. The groundwater districts will not have regulatory authority. They are there primarily in an advisory capacity to assist

the MDEQ. The state really wants to move industry as much as possible to surface water, and to reserve groundwater for municipal and private use. This is also a centralized system; that is, it comes from the top down. There is, as I can tell, minimal public involvement in this, and that is one common complaint I think that you hear in Mississippi, that the public would like to have more say-so in how the water plans are actually devised or put together.

Now, Texas differs from both Arkansas and Mississippi in that while the intent is to have a statewide water plan, the emphasis is on regional water plans. The reason for that is that Texas is a state that has for many decades avoided the notion that the state should be in charge or should dictate how water resources are used or developed. The theory here is that people who live in a given region of the state understand the water resource needs of that area and are better able to address them than would be an agency in Austin that might be somewhat disconnected with the issues in that region. As such the system is a decentralized system. The plans really come not from the top down but from the bottom up, although as we'll see, there are agencies in the state of Texas that have a substantial amount of clout in how water plans are put together with regard to issues of compliance.

Actually, Texas has -- the level of public involvement is very high in Texas, and I think if you compare all the water plans of all the states we've

looked at and from the states that we're not going to show you here, Texas has by far and away the highest level of public involvement in water planning.

How did they divide the state up into regions? The Water Development Board, which is the agency in charge of water planning in the state of Texas, divided the state up into 16 water-planning regions. The regions were designed to be consistent with the major drainage basins and also with major aquifers. Every effort was made to make sure that aquifers were not chopped up because they wanted to make sure that management plans that were put together for a region were done so based on sound hydrogeologic reasoning. They wanted to avoid, where possible, drawing artificial political boundaries in the state to manage water resources. So these are the 16 regions and, of course, these regions right here are adjacent to Louisiana and have much in common with the areas, the hydrogeology and the surface water hydrology of western Louisiana.

The agencies and the regulatory authority associated with these agencies are as follows: in Arkansas it's the Arkansas Soil and Water Conservation Commission. The ASWCC is an agency that, based upon my reading of the rules, has substantial regulatory authority, but in fact, is reluctant to regulate ground water. Now, they rather aggressively regulate the use of surface water, but as we've been told by representatives of the Commission, the Commission is very reluctant to impose regulation of ground water

primarily because they're afraid of the fallout from various sectors of the economy in Arkansas should they attempt to limit groundwater usage, even in critical areas. Now mind you, the rules actually point out that they do have the authority to do this, but under the direction of the current Commissioner, they are reluctant to do so and will not do so until they are directed to do so by the current Commissioner or a subsequent Commissioner.

In Mississippi the agency in charge of water planning is the Mississippi Department of Environmental Quality. Now, we've looked at the statutes and it looks to us as though the MDEQ does have substantial regulatory authority, and it appears not reluctant to regulate groundwater usage, although from what we can tell it hasn't been very aggressive about that. Both the MDEQ and the Arkansas Soil and Water Conservation Commission register wells, and both are empowered to levy fines for violations of surface water and groundwater rules.

Texas, again, is another special case. The agency in Texas that is in charge of water planning is called the Texas Water Development Board. It has had various incarnations over the years. At one time or another it's been known as the Texas Water Commission or the Texas Board of Water Engineers, and on two separate occasions it's been known as the Texas Water Development Board. It is currently known as the Texas Water Development Board. However, as large and influential an agency as it is, it has minimal

regulatory authority. The Texas Natural Resource Conservation Commission is the agency in Texas that has regulatory authority to address groundwater issues, but it is not authorized to delve into the issue of water planning.

Texas chooses to regulate ground water at what we would consider the local or the regional level, and it has done so in the last legislature by designating what we call Underground Water Conservation Districts as the authorities in Texas that have the clout to regulate ground water. Underground Water Conservation Districts can set pumping limits. They can set spacing limitations. They can deny permits for use of ground water. The issue with the Underground Water Conservation Districts is whether or not they have the will to do what they need to do.

Here's a map showing the current Ground Water Conservation -- Underground Water Conservation Districts in Texas. Some places are known as Groundwater Conservation Districts and in other places they're known as Underground Water Conservation Districts. Currently there are 87 Underground Water Conservation Districts in Texas. Now, they cover -- they don't cover all the counties in Texas. You'll see here, these are the older districts and these are the newer districts right through here, and you'll notice that many of these districts cover just a single county, whereas others cover multiple counties. I think while this is in concept a good approach to water planning, it's an attempt to regionalize the

implementation of the state's water plans, it has the potential to break down because many of these districts tend to function independently of what districts around them are doing, and they don't, in fact, attempt to look at issues in adjacent counties before they try to formulate a plan for their county.

So what they need to consider doing and what I think will happen over a period of time is that many of these conservation districts will realize that it would be wise to consolidate in order to manage groundwater resources more on a regional level, as opposed to a county by county level. Those that have been most successful are the districts that cover multiple counties, such as up here in the northern high plains and the central high plains and in these various other areas here in the rolling plains area of Texas. Eventually, as I said, the different districts up here will have to, for a number of reasons, many of them financial, many of these districts do not have financial resources to do what it is that they are charged with doing, and it would be only by combining forces that they would have sufficient economic clout to be able to regulate water usage in their regions in accordance with the state water plan.

Now, it's important to note here that these districts cannot do whatever they want to do. Whatever they do has got to be consistent with the Texas State Water Plan or the Texas Water Development Board, which controls an enormous sum of money, doles out millions of dollars a year in water development

projects, will refuse to fund their request for water development grants.

Critical groundwater areas are something that I know is of interest here to the Commission, so we thought that we would look at how each one of these states addresses the issue of critical groundwater management areas. There are significant differences in how this is done.

In Arkansas the delineation of these critical groundwater areas is done entirely by the Arkansas Soil and Water Conservation Commission. The program, however, is largely non regulatory. By that I mean, it's non regulatory because the Commission chooses at this point not to require -- not to require well owners in critical areas to cut back pumpage, necessarily. This is as a result of just a reluctance of the Commissioner to want to wade into what he considers to be a potential problem area.

Mississippi doesn't have an official program for identifying or delineating critical areas. Right now the MDEQ is conducting statewide studies to identify potential problem areas. They've identified areas specifically on the Gulf Coast and areas up in northern Mississippi where they expect to see large population growth, and there are other areas where there is a lack of data to support any assessment of critical areas. But at this time Mississippi does not have an official critical groundwater area program, nor does it have a method of identifying critical groundwater areas or regulating use in critical areas.

Not to be outdone for terminology, Texas took something like the term critical groundwater area and turned it into priority groundwater management area. A priority groundwater management area is in Texas delineated by the Texas Water Development Board. It can cover a county or multiple counties, and it is something that is regulated by the Underground Water Conservation Districts, or the issues are also addressed by the county commissioners if there is not in fact an Underground Water Conservation District.

Arkansas, getting back to Arkansas, the Arkansas Soil and Water Conservation Commission has identified these areas in the state as critical groundwater areas. The green area up here is a proposed critical area, and these are the areas for future study. Eventually they'll branch out into other areas of the state to determine whether or not there is sufficient reason to identify those areas as critical areas. But you can see here in Arkansas that the southernmost counties that abut the northern boundary of Louisiana have been identified as critical areas or future study areas. So there's a large swath of land in Arkansas that's already identified as critical. I don't have a map to show the pigmas in Texas, as we call them, but there are approximately 73 pigmas right now, most of which are under the direction of the respective Underground Water Commission Districts or the county commissioners.

Water rights. The states have different approaches to these issues. Arkansas is for surface

water use, the state that describes itself as a reasonable use riparian state. By that it means that landowners whose property abuts a river or a surface -- body of surface water, have the right to withdraw water without having to obtain a permit from the state. Nonriparian owners do not have a right to surface water in Arkansas. Nonriparian owners have to get a permit from the ASWCC in order to use water.

It's interesting to note here that in times of shortage, in times of low flow conditions, this is for surface water, that nonriparian owners may find their use of water curtailed significantly or altogether. The riparian owners may also find that their surface water rights are curtailed, but only after those of the nonriparians have been restricted.

Now in Arkansas, Arkansas also is a state that describes itself as one that uses a reasonable use provision for ground water. Theoretically in the critical areas, water rights are issued only in critical areas. And it involves a rather complex process involving a hearing in which the well owners in that area are then assigned allowables from the aquifer in order to meet their needs. A weakness in the Arkansas program is that many of the wells have been grandfathered in and there's little that can be done to cut back the production from the grandfathered wells.

Mississippi is a state that -- it's a little strange for a state east of the Mississippi. It has what I call a modified appropriation system for

surface water. Most of the eastern states are what we call riparian states, and states off to the west are states that we call -- are states that function under a prior appropriation doctrine for surface water. Mississippi back in the late '50s was one of the first states in the southeast to adopt an appropriation approach to surface water, and also for ground water. Mississippi regulates the use of ground water and surface water by issuing permits, which are issued for a period of ten years. The permits have to be renewed every ten years, and the permits can be amended as need be or even revoked by MDEQ.

Texas is -- in Texas all flowing waters, all flowing surface waters, navigable waters are property of the state. Landowners are allowed to use water provided they obtain a permit from the state of Texas to use this water. Very few people -- only private landowners are allowed to use water without a permit provided the water is for domestic use or for watering of livestock, and that's because domestic use and livestock use are considered to be minimal uses of surface water resources.

With regard to ground water, the official doctrine in the state of Texas is the rule of capture doctrine, which is really what you find in Louisiana, and what that means is as it's explained in Texas, you can pump all the water that you want from beneath the surface of your land provided the water is put to beneficial use. There is no provision in there for reasonable use. In fact, the state legislature has

been criticized harshly over the years because they've not attempted to address the issue of heavy usage of water in some areas of the state that have caused springs to dry up and wells to dry up as well. That's being changed somewhat however. Texas has been very reluctant to officially change the rule of capture doctrine, but it has done so through the back door by setting up these Underground Water Conservation Districts and giving them the authority to regulate the use of water within their boundaries.

Again, as I said, a problem with the Underground Water Conservation Districts is whether or not they have the will to do what they're authorized to do by the legislature, and you'll find that there's a wide range that -- the degree to which the Underground Water Conservation Districts will regulate ranges from those that are very interested in regulation and take it very seriously to those that really don't take it very seriously and have allowed -- and are willing to allow things to go on as they have for many decades. That will eventually catch up with them, however, as I think eventually the legislature will be forced to address the issue of the rule of capture.

Well how much money do these states spend on water planning programs? There's quite a bit of difference here, and I'm going to run through these, and I'll also talk about the budgets that some of the other states have allotted for water planning. The Arkansas Soil and Water Conservation Commission has a budget of about $6 million. That's its total

operating budget. Of that $6 million only about $200,000 is appropriated each year for water planning. This is to support a staff of three full-time staff members and two part-time staff members.

In Mississippi -- excuse me, Arkansas also recently in the last session of the legislature asked for a $4 million appropriation to rewrite the state water plan, but because of budgetary considerations, the request I don't think got out of committee, so they're waiting for another session of the legislature to approach the legislature for more funding to rewrite their water plan. They need to update this thing. It's now 15 years old.

In Mississippi the MDEQ has a budget of about $1.5 million for water planning. This is to support a staff of 25 employees. I don't know necessarily the breakdown of professional staff and supporting staff, but this is what specifically the water-planning budget for MDEQ is.

Texas has spent a lot of money on this issue over the years. Senate Bill 1, which was the landmark legislation that kicked off water planning, the current or the modern period of water planning in Texas, was funded over a period of three years to the tune of $18 million. We started water planning in 1998, the program in 1998 and submitted our plans in the first week of June -- of January 2001. That $18 million covered the 16 regions that the consultants worked on in order to come up with these plans.

Senate Bill 2 was passed in the last session of

the legislature, and that was a continuation of Senate Bill 1. To tell you how complex Senate Bill 1 and Senate Bill 2 are, I'm going to compare that with the Act 446 in Louisiana. Act 446 was 18 pages long. Senate Bill 1 was 146 pages. Senate Bill 2 is about 200. So they're really getting into water planning in a rather aggressive way, and I think that what that tells me is that they have designs down the road to change a lot of the ways Texas has approached water planning. But they've allocated another $18 million to update the plans that we submitted in just January of last year. That will cover a period of five years. Those plans will be submitted in 2006, and then it is envisioned that the process will start over again. So Texas considers this an ongoing process with plans rewritten every five-year period.

An important part of the plans that Texas has done is that we had to include a list of strategies to address all the potential water shortages in each one of the regions. We had to come up with estimated cost of implementing these plans. Because if we didn't, the Water Development Board informed us that the region would not be eligible for funding if that particular strategy were not identified. What it did was it really forced us to think long and hard about the issues in specific regions in order to address all the potential water shortages that those regions might face.

The operating budget for the planning division of the Water Development Board is about $2.6 million for

this fiscal year. The budget for the entire agency is about $21 million. That $2.6 million supports a staff of 40 full-time employees. So you can see that there is quite a disparity here in the amount of money that the different states spend on that, but that's a reflection of the resources that the states have and also a reflection of the issues within those particular states.

We're going to look at the budgets of three other states. Florida is divided into five water-planning regions. The central agency in Florida that's responsible for water planning there is actually the Florida Department of Environmental Protection. As I said, there are five municipal water districts, all of which are very well funded. The water districts do not rely on legislative appropriations. They rely upon ad valorem taxes to support themselves. There are five districts: the Northwest district, the Suwannee district, the St. John's, South Florida and the Southwest Florida district. The total budget for these agencies ranges from a low of $24.9 million for the Suwannee district to a high of $525 million for South Florida. These are very large agencies. They are very aggressive, and are very aggressive about enforcing the water regulations in the state of Florida.

As we go farther west, we also looked at Oklahoma for a number of reasons. Oklahoma is a state that has for the fiscal year 2001, a budget of $652,800 for water planning. For the year 2002, the budget is

$720,411. The Oklahoma Water Resources Board has approached the legislature for -- has asked the legislature for a $6 million appropriation to develop regional based water plans based on the Texas model. They watched this very closely over the three years and I think were impressed enough by what we did to think that they could follow a similar plan for Oklahoma.

And in Utah, which is another western state, one that is like most of the western states, a prior appropriation state for surface water resources, the fiscal year 2001 budget for water planning was $1.82 million.

So you can see that there's a wide range of funding for the different states. Florida, of course, is the most heavily funded, followed by Texas, and then other states. So in the long run when Louisiana looks at how it wants to regulate water, it will have to look very closely at its resources and the issues specific to Louisiana in order to come up with a budget that will support the staff that can do an adequate job for Louisiana.

Why is all this important? As I said, Louisiana is surrounded by three states that have water planning programs. One of these states, Arkansas, is a state that is seeking to rewrite its water plan. I don't know where they're going to go with this, they haven't decided themselves, but they do want to rewrite their state water plan. We're not sure where Mississippi is going right now. It appears that they are pleased

with where they are. But Louisiana finds itself right in the middle of three states that have three different approaches to water planning, and has three different approaches to water rights, the definition and administration of water rights. It shares surface water resources and ground water resources with these states. And so Louisiana, when it comes to devising a water plan that's best for Louisiana, can't do this without looking at what other states have done. The reason we're doing this is we hope this will give the members of the Commission, as I said, a firm idea of what other states have done in order that Louisiana can come up with a plan that is consistent with what the other states have done but that best meets the needs and interest of Louisiana.

That's all I have to say about this. If there are any questions, I would be glad to entertain them.

COMMISSIONER CEFALU:

I have a question. What's the $18 million spent on in Texas?

MR. DARLING:

The $18 million -- well, let's go back to this.

COMMISSIONER CEFALU:

I can see the 2.6 for a yearly budget, but you spent $18 million. How much of that is litigation?

MR. DARLING:

Pardon?

COMMISSIONER CEFALU:

How much of that is litigation?

MR. DARLING:

I'm not sure what you mean by dedication.

COMMISSIONER CEFALU:

Litigation.

MR. DARLING:

Litigation? Okay, none of it is for litigation. None of it is for litigation. The $18 million is spent -- is distributed among the 16 regions. Not all regions get the same amount of money, but it's distributed among the 16 regions so that the regional water planning groups and their consultants can develop those plans over the planning period that are then submitted to the Water Development Boards. Let me show you something.

COMMISSIONER CEFALU:

Is this one of the plans that y'all helped develop? Did y'all work on this plan?

MR. DARLING:

Of the 16 regions, we worked as a prime consultant in two regions and a sub-consultant in six other regions. For each region we submitted a report much like this. All reports in all regions had to have the same chapter titles and had to address the same issues. Once those 16 regional reports were submitted, the Texas Water Development Board then took them and combined them into a statewide water planning report, which has just recently been released. And it's more of a digest of what is in each of these, the reports for each of these 16, the 16 regions. So that $18 million is money that's spent to support the planning process in each one of these regions. The

$2.6 million is money that supports the planning group itself and the Water Development Board. Money for litigation comes from a different office in the Water Development Board.

MR. CROSS:

Bruce, could you tell us what percentage of the general fund budget that $18 million is so we can compare Texas to Louisiana and Arkansas, instead of just a figure of $18 million?

MR. DARLING:

Right now I really can't. You mean for the entire Water Development Board or for --

MR. CROSS:

Well, that would be important to know because -- do you happen to know whether it's federal money --

MR. DARLING:

All of that money is allocated by the legislature. None of it is federal money at all.

MR. CROSS:

But the budgets are different for each state?

MR. DARLING:

The budgets are different for each state. The funding mechanisms are different for each state, obviously. For example, Arkansas, in Arkansas some of the Arkansas Soil and Water Conservation Commission's budget comes from donations and from various other fund raisers that they run in the state. So the sources of the money, again, vary from state to state. In most cases they come from the legislature. We find in some of the western states that because money has

been somewhat scarce, they've had to do their water planning in stages so that it's not all done statewide at the same time. New Mexico is a classic example of one such state.

Any other questions?

COMMISSIONER CEFALU:

Is that a reoccurring budget, I guess?

MR. DARLING:

Pardon?

COMMISSIONER CEFALU:

I'm asking if that's a reoccurring budget, that 18 million.

MR. DARLING:

Not necessarily. It depends upon how much money the state figures they need to put back into something. I expect down the road you might find that those budgets might be lower over one five-year period as they figure they've adequately addressed the water planning needs of certain regions. Further down the road they may decide that they have to do a more aggressive job, and you might find that they'll have to increase the budget significantly for some regions or for all regions.

COMMISSIONER CEFALU:

Did you participate in Florida's plan?

MR. DARLING:

No, we didn't. No.

COMMISSIONER CEFALU:

Do you have any idea why there's this --

MR. DARLING:

Florida's plan --

COMMISSIONER CEFALU:

-- big discrepancy in that initial input?

MR. DARLING:

Well, Florida is a state that has its own interesting array of water resource problems. Planning in Florida again is done at the state level. It's done by the Florida Department of Environmental Protection, and primarily though by the water development -- by the municipal water districts in Florida, which take their policy directives from DEP. Consultants are not heavily involved in water planning in Florida. When the municipal water districts in Florida were set up, they were given the authority to fund themselves through ad valorem taxes, and that's why their budgets are so large. And if you'll look at the discrepancies in their budgets, you'll notice that the largest budgets, of course, are in the areas of Florida where you have --

COMMISSIONER CEFALU:

Richest areas.

MR. DARLING:

Right, right. So they can levy rather heavy ad valorem taxes to support those groups. Some of those water planning -- some of the municipal water districts in Florida, for example, have hundreds of employees, but with budgets of $100 million or more you can afford to support a rather large staff of employees for that.

I'm going to turn this over now to Brent Sonnier

who will talk about some of the legal issues involved in Louisiana water law.

MR. SONNIER:

Thank you, Bruce. When most attorneys tell you that they're going to be brief, it usually goes on and on, but I'm going to tell you I'm going to be brief today. There is one issue that several people have raised that are involved in this process and it is with respect to the authority that the Commission has been given and how that interrelates with the several local and regional entities that are out there that have been organized under statute. And I visited with Mr. Steve Levine, who is in the audience today with the Task Force, who offered a widely cited article back in 1984, which basically addressed the status of the water law in Louisiana as it stood then. As I told him, a lot has happened since then.

And there are two major cases which have been decided in Louisiana that can be read that not only do you have broad authority to protect Louisiana's groundwater resources, but you probably have the mandate to do so. In 1984 a case was decided called Save Ourselves, Inc. versus Louisiana Environmental Control Commission, the predecessor to Mr. Chustz's department, the Department of Environmental Quality. And a case followed it and followed Save Ourselves again in 1983 called In-Re: American Waste and Pollution Control Company. They both had very similar facts. Companies wanted to cite hazardous waste sites in the area where there was groundwater aquifers, and

in the latter case, In-Re: American Waste, it was over the Chicot Aquifer out at Cade, Louisiana.

Citizens groups protested the permits that were granted in each of these cases. The Louisiana Supreme Court ultimately decided that DEQ had not gone far enough in having the companies consider alternative siting, which is specifically in their regulations, as far as siting of hazardous waste sites. But the important thing that was said is that under Article 9, Section 1 where the Constitution sets out that the natural resources of the state including air and water are to be conserved, protected, and replenished to the extent possible in the best interest of the citizens of the state, mandates at a constitutional level that all state agencies must act to protect these water sources, and that standard has been articulated as the risk must be minimized and avoided to the practical extent possible, which also means the maximum protection an agency can afford.

Now, as I said, this was decided in the context of siting of hazardous waste sites that posed a risk to groundwater aquifers. But in function there is really no difference between hazardous waste pollution of an aquifer or such severe depletion of an aquifer that ultimately you have severe saltwater encroachment or subsidence in the aquifer that destroys its structure to store water and to be recharged. There is really no functional difference. It's irreparable harm. So probably the Commission's authority here is very broad, and it's almost mandated by the Supreme

Court of the State of Louisiana when you're presented with a situation where there is that much of a risk posed in a critical groundwater management area in which you have to act and the things that are set out in the act as far as taking measures such as limiting pumping rates and -- I say suggest alternative siting, it may be mandated in certain cases, rather than allow additional use of the groundwater resources that are available.

Now, the good news is in looking at all the regional and local bodies that have some groundwater jurisdiction within their enabling statutes, it's largely consistent with what your mission is here today is to protect groundwater resources. Those agencies are typically advised in their legislation they are to cooperate with other state agencies. The exercise of the police power under Act 446 is probably of greater strength than they hold, but there's really not all that much conflict that's going to fall unless we're into a true emergency situation where certain drastic measures must be taken.

But I wanted to touch on that issue today because I know it's been on a lot of people's minds, but because of the constitutional mandate that the Supreme Court has articulated in those two cases, it's probably a safe bet that any time that we have a critical groundwater situation that is posed to the Commission or your successor body, that it is going to have to be considered on a constitutional level. And it's not only your authority to exercise. When

citizens come forward, and this was stated in the later opinion, In-Re: American Waste, they were citing to a constitutional right they have because it is in the public interest. And in that particular case, standing was an issue. Did these citizens have a right to even come forward. The Supreme Court said they are essentially asserting the protection of groundwater resources in the public interest and to protect their own public health and safety. So they had a commensurate right to assert at their own constitutional level in bringing these types of disputes to you.

So I just wanted to touch base on that issue because it's probably not so much what you can do, it's probably a lot more what you're going to have to do. That's all I have today. I'll take any questions that you may have on the legal issues that are involved.

COMMISSIONER CEFALU:

I have a legal question for you. Have you ever seen any states, bordering states that were using waters from the same aquifer that may have been common to both states, have some type of agreement on that aquifer so that one of them -- if one of them is going to have laws you can't deplete it and the other one is sitting there depleting it, have you ever run across anything like that?

MR. SONNIER:

Well, I don't know. Does the Sparta have that type of compact right now, Mr. Durrett?

MR. DURRETT:

I don't -- we've cooperated and worked with them, but we don't have a written compact of any signed.

MR. SONNIER:

What can be done, I believe, it probably may even have to come down from a congressional level, of course, Louisiana has a Sabine River compact with Texas. And basically to put it simply, I mean, it's a little bit more complicated, but we have a right to take about half of that water and Texas has a right to take half the water. I think that type of compact would probably have to be mandated from a congressional level that there is a structure there, but you've got to realize surface water, of course, is flowing.

Here there's only going to be so much going from border to border or away from the border going north into Arkansas coming back into Louisiana that we're going to have the effect simply because of the limitations on drainage. But it would literally have that if they are sitting with primarily most of the recharge and we don't have much of the recharge area, that that might be done, and it would be something that would have to come down on a congressional level to set a compact in place for interstate purposes.

COMMISSIONER CEFALU:

We're talking about the congressional level, is there anything at the federal level on any kind of water resource act to protect the water resources of the United States period?

MR. SONNIER:

Well, the water resources, the closest thing we have -- I mean, it's pretty much left to the states to regulate their aquifer. We have the Safe Drinking Water Act. The Safe Drinking Water Act, though, primarily is addressed to --

COMMISSIONER CEFALU:

They don't have anything to do with the water resources.

MR. SONNIER:

Well, it does, because the Safe Drinking Water Act says primarily you can't inject -- use injection wells to endanger water resources.

COMMISSIONER CEFALU:

It protects them, but it --

MR. SONNIER:

What comes out of the tap, but the thing is, though, how that's going to play into this is if water is being used by a particular user and it's causing a municipality to have to spend more money to treat their water because chloride levels are coming up or any of the levels that are regulated under the Safe Drinking Water Act, if it gets more expensive, it's affecting interstate commerce.

COMMISSIONER CEFALU:

It is, but that's not through use, that's contamination. That's I think a different legal battle. But my concern is from the federal level, if we're going to have an aquifer that's shared by more than one state, it's true you're going to have to have

something at the federal level that's going to put those two states or three states together to try and save the aquifer in the same manner. I'm hoping to get from this study of these consultants, you know, the balancing act of how much are we using, who is using it, how much do we have, and how -- is it being replenished.

But what creates another problem is what if we find out there's a problem somewhere and that aquifer is being shared by another state and we have nothing in place to get that state to work with us, we have another level we have to go to.

MR. SONNIER:

That probably is true just because of the interstate nature because one state pretty much can't tell the other state except through a lawsuit. Several years ago Oklahoma actually sued Arkansas over the White River coming from that state and saying you're polluting this river coming into Oklahoma, and there simply wasn't a compact to regulate it.

COMMISSIONER CEFALU:

Sure. Just another -- it's more work we have to do to come up with something that's going to be a final rule. I don't know that we've considered even -- I don't know if we've even considered to have to look at that at this time, but I know we're on a fast track and I want to make sure we get as much information up front so that we can make good decisions and try to get this thing finalized in time.

MR. SONNIER:

Well, in view of your question, I will take a look at exactly what the procedure is to go for a compact, just how that has to originate.

COMMISSIONER CEFALU:

The other thing I'm really concerned about with industry, and I tell people about the -- I've got to use the offtrack betting problems we had. Our parish voted against it. The parish next door voted for it. They had one right outside the parish line. All our people went to it, so all my tax dollars left town and they were just right across the line. The same thing can happen with an aquifer that's common to both states. If we don't have something in place in a compact form, they can sit there and deplete it, and we can sit here and have all the regulations we want, or they may get all the business that needs that aquifer on that side of the line and get the economic development and taxes and we lose it all just because of our regulations, and yet we haven't solved the problem because the aquifer has gone down. So we want to make sure that we don't get caught in a catch-22 situation, and if there's something you could look into, I'd appreciate it.

MR. SONNIER:

I certainly will, and the thing just as we're trying to do here, a compact of that nature would probably be designed to say a minimal level of water, minimal water level must be maintained in that aquifer.

COMMISSIONER BOLOURCHI:

Let me just say, Bo Bolourchi, DOTD, you mentioned compact, there already exists a compact called Red River Compact Commission between Texas, Louisiana, Arkansas, Mississippi, and Oklahoma on surface water. So there is already some mechanism. In fact, that commission meets the 10th and 11th of April in Arkansas. And we met with the Soil conservation people just a couple of weeks ago on the apportionment of these waters of the Ouachita River because of the fact that there are certain amount of that surface water that is being -- is in the process of being piped for uses in the Union County since they added that -- there was a tax of $240 per million gallon. So the use of surface water is going to increase, and we were concerned that we get our 40 percent. The minimum amount Louisiana is due is 40 percent at the state, Louisiana, Arkansas. So there is some precedent involved and certainly that can be looked at.

COMMISSIONER CEFALU:

Good. Thank you.

MR. SONNIER:

Thank you.

MR. HAMILTON:

We seem to have taken a lot of your time so I'm going to go through this pretty quickly. This is going to be kind of a preview of the website, assuming it shows up here. Right now it exists on our server in Lafayette and we just made a copy of it, brought it here, so this is not tied right now to the Internet.

So there will be some links here that will not work.

Again, a quick overview. Before we release this site, of course, Tony and his group need to look at it and approve the content of it, and any new major updates or upgrades of the site, other than postings of some more links and things like that, Tony and his staff will have a chance to review it before we put it out there. In addition there will be some work products that we put on the Web once they've been reviewed by Tony and everything.

So this is what the management plan website looks like. A little bit of an introduction here, some links to the teams, the comments, and everything else. Project overview, identifying what's actually going to take place in the plan itself, what we're going to deliver in Part 1 and Part 2. As you go down you can see these are the different deliverables and the different points that we're going to touch on. As we go into the project team, all we're doing here is listing the members of the team, a little bit about each organization, a link to their website.

The project schedule, a very brief project schedule that is really a condensation of what Raymond showed you earlier this morning. We're somewhere on the 20th right here, and we plan to deliver again in the mid June on the final of Part 1, and then at the end of November we'll have Part 2 up.

Acronyms and glossaries, everybody has got these kinds of things. These will be added to as people request them or as they come up.

And frequently asked questions; what is ground water; why is it important; what's an aquifer recharge area, et cetera. What is critical groundwater? How can a plan benefit residents of the State of Louisiana? Et cetera. And the answers to those will be posted when you click on them.

This is strictly a link to the Ground Water Commission. Right now if I'd click it I'd get "page not identified" but if you -- on the live Web when you click it, it brings you right to Tony's website.

Community involvement, posting of meetings, this is a pointer, again, to Tony's website about the Commission and the Task Force meetings, and any meetings that we set up or propose will be posted on this page also.

Press releases, there are a number of press releases out there right now. This is the one that Tony spoke to earlier that was just recently released. And of course, there will be some more of those as they are released, and there are some other articles that show up in newspapers that we plan to post out here.

Public response and comments, this is a page where when you log onto our site you'll be able to identify yourself, what your affiliation is, if you have anything, give us an e-mail address, identify your area of interest in any one of the aquifers or all of them, and make comments. Let me see if I can do this. There it is, make comments right here. This information will be saved in a database on the server.

The information as we say here is not going to be made public on e-mail addresses, but we will summarize the information, give it to Tony for mailings, give it to the Outreach Committee. If anyone so wishes to have their name added to lists or be notified of upcoming meetings automatically and things like this, it's kind of a data collection thing. If we want to see if there's a lot of interest in any one of the given aquifers, we can search the database and determine, well, there's a lot of people writing in on the Sparta but we're not seeing anything on Southeast Louisiana or something like that. So that's what that public response and comment section is all about.

Project documents. We mentioned earlier, Bruce was talking about his various state reports. Right now they're going to show up as a draft report. We have all of them posted here. This is the format of what you're going to see, the program name, who authorized it, the year it began. I'm just going to show you the front page on these, agency function, things like that. Let's grab Oklahoma. Any one of them, they all follow the same format, different information about each one. That will be publicly available. That will be available to the Commission and the Task Force and those people.

Brent was just speaking about some legal issues. This is one of his introductory papers right now about Louisiana law and registration. Again, he just goes through the whole issue of what's happening in Louisiana and what the Act does, and what are we

jurisdictionally -- what can we do and what can't we do. When I saw that I think it was about a 15-, 18-, 20-page document. That will be available at some point in the future. We have the GIS created, if somebody wants to stay around after the meeting and see some of the maps we have, they're available. What we intend to do is make it interactive so once you get on the Web, somebody can click here and say, show me the Sparta Aquifer or show me the parish boundaries with respect to so and so, and how many aquifers are under this parish, et cetera, et cetera. So that's what it means interactive. It's not interactive yet, but it will be. When we create PowerPoint presentations such as these, we will post them out there for people to take a look at just as a historical review of what's going on back there.

Related documents. Act 446 -- now, this is strictly a link to Act 446, to various newspaper articles, to the legislative synopsis that's posted on other people's website. So this is simply something to get people more information. We're not duplicating anything here. We're just sending them somewhere else to get them. Same thing with related links; Ground Water Commission, Caddo Lake, Sparta, USGS, Arkansas Soil and Water, et cetera, just a number of different links for additional information.

Then, of course, the site map is something that simply shows you, here are the different areas that are available on the website. So that's what we plan to do. By the end of this week, Tony, we will have

you an address to look at that won't be public and you'll be able to log in from your office, look over everything, and say yes, do this, change that, add this, whatever. Once you stamp it approved, then we'll put it live, and that will be a function of whenever you guys have had a chance to look at it.

I don't have anything else right now. I think that pretty well concludes our presentation. Do we have any questions at all?

COMMISSIONER CEFALU:

I have a question. Under the Commission and Task Force, are you going to have our e-mail addresses and who we represent up there, so people can write us in case they have a question?

MR. HAMILTON:

Actually, if you go -- I can't do it right here because it's going to show up as not available, but if you go to that, you're actually going to the Commission and Task Force website itself, and all that is available. I didn't see any reason to put it here. This is about the management plan, but the Task Force is there. It also shows up, I think you can get to it if you'd go here. Now, this is, again, not showing up because the link is not live, although there is some what they call stored pages. If I click here it looks like I'm going to the DNR website. It's cached information that for some reason it didn't want to cache everything. But to answer your question, no, we don't have them, but you have a direct link to them right there.

COMMISSIONER CEFALU:

But like you say, when you do link onto it you'll be going into his website that has it.

MR. HAMILTON:

His or --

COMMISSIONER CEFALU:

As long as they have access, that's what counts.

MR. HAMILTON:

Yes, or USGS or anybody else's.

COMMISSIONER CEFALU:

Thank you.

MR. HAMILTON:

Any other questions?

(No response.)

COMMISSIONER GAUTREAUX:

If not, thank you, Brad.

Our next item on the agenda are the reports by the Ground Water Management Advisory Task Force Committees, and first, going in alphabetical order, Agricultural Committee? (No report.) Ecology? (No report.) Economic Development? Mr. Owen?

MR. OWEN:

My name is Eugene Owen, and I'm functioning on the Task Force as Chairman of the Economic Development Committee and also the Public Supply Committee. This will be a joint report of those two committees.

The Public Supply and Economic Development Committees met on March 5th for the purpose of exploring possible groundwater management policies which should be in effect in the event of future

determination of critical groundwater areas or potentially critical groundwater areas. The goal of these committees' efforts was to identify promising policies which should be developed in advance of such a determination of criticality, to permit the orderly transition to alternative supplies without disrupting public supply sources, and without breaking faith with industrial users who may have located in Louisiana with a portion of their economic justification predicated on the ready availability of a resource which is now found to be either limited or curtailed.

The committees concluded that such policies which could enable the development of surface water supplies as alternative groundwater supplies to replace or supplement supplemental industrial water usage now dependent on groundwater sources, such policies are promising and merit detailed study by this Commission or its successor entity. The committees concluded that sufficient statutory authority to implement the creation of such alternative industrial surface supplies and the intended delivery systems probably does not exist in its present form.

The committee also concluded that -- that a conclusive feasibility analysis of the cost, usage, and economic feasibility of such a model was a prerequisite to the seeking of necessary legislative authority. If I might expand for about three or four minutes, I'd like to tell you that the committees did not consider this in the abstract, but what we attempted to do instead was to take an example, and we

used as an example the Baton Rouge area in which there are some 18 different aquifers that are supplying water to both industry and public supply. Industry and public supply industry uses about 52 percent of the total ground water extracted in the Baton Rouge area, and public supply the other 48 percent. It is possible to identify three industries in the Baton Rouge area which might be converted in the event of a curtailment, such as I mentioned, to surface water supplies, and this would account for more than 80 percent of the total industrial usage in this area.

The probable best method of accomplishing this might be to create a public authority, a state authority or other public authority, to give it sufficient statutory authority to incur debt, to issue instruments of debt, and to fund the construction of such facilities necessary to treat and deliver surface water to these industries. It would then be necessary to confer the right of eminent domain, and it would be necessary to endow this creation with the right to levy and collect user fees or extraction fees from the remaining groundwater users to pay for at least a portion, if not the entire capital cost of such a program.

In the example that we used, we used a 75 million gallon a day water treatment plant on the Mississippi River, delivering water to the three industries, which is more than 80 percent of the total industrial water used in Baton Rouge. We found that if industry could pay the cost of operating those plants, that the cost

would probably be approximately the same thing that industry is paying to lift its groundwater now. Now, that doesn't retire the first cost.

If the remaining groundwater users paid the amortization or the severance cost that would amortize the capital cost, it would be a very small price to pay, well within the affordability range of the average user in public supply or the average remaining and necessarily smaller industrial user, to where we would have accomplished two or three things. We would have accomplished the goal of keeping faith with industry, not penalizing industry and saying this is a problem and it's your problem to solve. This would also accomplish the more desirable goal in Baton Rouge of pushing the threshold of a potential groundwater problem back 150 years or so.

And these -- but these kinds of policies necessary to place into effect don't just happen automatically. They don't fall out of a tree. They have to be -- they have to be first of all the product of a good hard look. And what I told you that we based our cost on does not qualify as a good hard look. It's a good guess, but it's certainly not a definitive study of the cost of such a program as we envision.

So the committees recommend to this Commission two specific recommendations. One, that the Commission authorize and undertake a detailed feasibility study of the cost of constructing and operating surface water treatment facilities and

transmission facilities for the purpose of supplementing and/or replacing groundwater usage in areas of critical or potentially critical groundwater usage. And two, that the Commission identify and seek all necessary legislative authority on a standby basis to enable the creation, financing, and operation of such governmental authority as may be required to successfully implement such alternative surface water supplies as replacement or supplement for existing groundwater supplies. Those two recommendations the committees place before you.

COMMISSIONER GAUTREAUX:

Thanks. That's a very good report, and certainly sounds like one that we need to --

COMMISSIONER CEFALU:

May I ask a question? Can we get a copy of that report?

COMMISSIONER GAUTREAUX:

I'm hoping we will, and I know we're going to have a transcription. I don't know, Mr. Owen, if you made a little summary. I know you probably have the written recommendations.

MR. OWEN:

I have the written recommendations, and I have the copies of a PowerPoint presentation on which the original report was --

COMMISSIONER CEFALU:

I'd like to get copies of that. I think that -- first, I'd like to thank y'all, thank the committee very much for the work you've done so far because that

type -- this type of information is going to make our job a lot easier in trying to make a decision.

But the question I had, in the study you mentioned the fact that developing water treatment facilities, these plants, I noticed in some of the statistics we had received previous by the consultant that the majority of the waters being used were being used for cooling, and a lot of times in cooling waters it never really hits -- the water never makes contact with the actual product. What it does is it's used for the transfer of heat and it's put back at a certain temperature back into the basin. What is the need for the water treatment? They just can't use the basic water, the surface water?

MR. OWEN:

Well, there are various degrees of water treatment that might be necessary and it may vary from industry to industry. This is way outside the scope of the preliminary study that we did, but I'll answer your question very briefly. If it's just cooling, you may just need primary clarification if we're talking about the source as the Mississippi River, which we are talking about in this case. And so you may only need cooling, just to remove -- just to remove the mud. It may be, though, that some of the industries are using heat exchange equipment or other equipment that may be more sensitive than just that, and it may be necessary to go to some sort of filtration as well as treatment. Even then if it's very high temperature heat exchange, there may be a problem with scaling

because the average surface water would be a hardness of anywhere from 62, as high as 100 occasionally. The 2,000' Sand is zero hardness, and it's pretty hard to have a scaling problem with that.

COMMISSIONER GAUTREAUX:

What I'd like to suggest we do, that sounds like a very productive meeting, and I'm sorry I couldn't join you, or have you scheduled another one, by the way, as a follow-up yet?

MR. OWEN:

No.

COMMISSIONER GAUTREAUX:

What we agreed to as policy in terms of committee and Task Force and Commission recommendations is to first discuss it as a whole Task Force and then put it forward before the Commission. I think we can look at the concept and get the staff to make -- send a summary out to all the members, and then at the next Task Force meeting discuss that recommendation and then forward it to the Commission, but I think we can take some action on your recommendations internally to present it to the full Task Force before the next meeting.

MR. OWEN:

Do you still desire me to file this report?

COMMISSIONER GAUTREAUX:

Oh, yes, absolutely. Thank you.

COMMISSIONER CEFALU:

Are you going to see that we get copies?

COMMISSIONER GAUTREAUX:

Yes. We'll distribute them. Has anyone been having a problem receiving their e-mail distributions?

COMMISSIONER CEFALU:

Not a problem, I just haven't really received much of it in dates that we meet.

COMMISSIONER GAUTREAUX:

We'll start sending you more. Thank you very much, Mr. Owen, and for all those that participated in that meeting, it does sound like it was a very productive one.

Industrial Committee? How is that survey going, Henry?

MR. GRAHAM:

Good afternoon. My name is Henry Graham with the Louisiana Chemical Association. The Industrial Committee also met briefly last week and we're continuing with our survey. We have gotten some results from the pulp and paper industry, and we have requested some information from some of the major utilities. So we have gotten the information already from the refineries and from the chemical plants, and we're still trying to continue the information.

As Mr. Cefalu pointed out, we still show, at least from the chemical and petrochemical side, primary use is for cooling purposes. That may change -- we expect the same type of use from the utilities as well, but the type of requirements for use may vary. I know within our industry there are some that use once-through cooling water where they just primarily settle solids, and there are others who use

it through cooling towers who need to demineralize the water and treat it fairly to remove a lot of the minerals to prevent scaling, as was pointed out. So there are variations, and our survey did not ask for that kind of detail in terms of variations. But we did -- we are continuing to get information from the major industries on usage.

COMMISSIONER CEFALU:

I do know that most industries that have to have any type of water treatment, and I know in the utility business for sure, they still take the best water they can get. And as he said, the aquifer water does come with hardly any impurities in it, but they still have to treat that. So as much as I appreciate not wanting to have an impact on industry, the reason most of those industries came here was because we had no water regulations and were able to do and use what we had without any regulations. We don't want to lose any of them, and I believe it should be the position of government to go ahead and see the economic development that we're working on right now in the state, we should make sure we don't lose any of them, and if we have to build the necessary facilities, we should do it. But we need to be careful not to duplicate anything that they're already having to do. So let's not send them crystal clear water they're going to take and retreat anyway if they're going to have a treatment plant.

MR. GRAHAM:

Right. I think as Mr. Owen pointed out, it would

take a lot more detailed study to examine exactly what level of treatment would be needed and whether you would want to do it as a public entity or whether you would want to provide incentives for the private companies, the major companies, to treat their own water rather than having a public authority do it. So there are a lot of things that probably would need to be looked at.

COMMISSIONER CEFALU:

And he mentioned in that questionnaire the two things he wanted to look into as far as the study of the plant facilities. We really don't have any budget to work with to do any studies; do we?

COMMISSIONER GAUTREAUX:

No, but I guess we would have to determine exactly the information that was needed, if it's already available, and what would be required to get it. It would be hard to say. Maybe we could pull it together with existing information.

COMMISSIONER CEFALU:

I know that Bo has got an economic development session coming up and it would be nice if he could get us a few dollars if we needed to make a study.

COMMISSIONER GAUTREAUX:

That is something that we need to consider in terms of recommendations for budget.

COMMISSIONER CEFALU:

We have two weeks? Is it next week?

COMMISSIONER GAUTREAUX:

I think it's -- it's probably --

COMMISSIONER CEFALU:

I know the agenda is cut, but you know --

COMMISSIONER GAUTREAUX:

For our special session, no, it's gone. The call is out.

COMMISSIONER DURRETT:

Karen, can I make two comments? One, in our study in the Sparta it's going to identify the alternative sources, and it's also going to have a budget of what it would take to look at those alternative sources.

Another point, if you're familiar with Arkansas, Eldorado, for instance, they're going to the Ouachita River. They're bringing the water to Eldorado and going around Eldorado, but the degree of treatment is different at each delivery point or each industry that they're going to go to. They don't treat the water when it comes out of the river necessarily. They treat it in different degrees where the industry is going into.

COMMISSIONER GAUTREAUX:

Bruce, I wanted to ask, if you don't mind, when you're looking at the different states' water policies, I would imagine that you would find that in both terms of economic development, law or practices in some states, and some perhaps in the water law itself, in your experience has incentives, fees, et cetera, et cetera been covered in great detail in what you've looked at or is that a separate?

MR. DARLING:

Many of the water plans mention economic development, and the need to have a water plan as a basis for economic development or to promote economic develop in the statute. Beyond that they don't get very specific. It's up to the agency that's assigned the responsibility to develop the management plan, to work with the economic development agencies in that state to craft a plan that's consistent with the development objectives of that state. Again, as I said, Mississippi mentions that. They are using their water policy in the state to attract economic development. They want to make sure that they can assure industries that would be interested in moving into Mississippi that they have adequate water resources for them. In many cases they're trying to shift industries as far as possible over to surface water. Nonetheless, they are using their water policy to promote economic development. Texas is too. With the population that's expected to double over a period of 50 years, the state can't expect to see its economic development slide, or you'll see the economy of the state dwindle.

So I find as a whole that water policies are typically -- include economic development as a component of their objectives, mainly because so many of the industries that locate in states do require adequate sources of water in order to function.

COMMISSIONER GAUTREAUX:

I think that's going to be very useful for us to look at other areas in terms of what they developed or

incentives, fees, et cetera, as the suite of options people might want to consider in the future.

COMMISSIONER BOLOURCHI:

Karen, I just want to mention that there is a precedence in this state with regard to the suggestion that was made by Mr. Owen. If you'll recall in the late '70s we had serious problem in Calcasieu Parish with water levels dropping and salt water encroachment problem. The state through DOTD Office of Public Works designed and constructed the Sabine River diversion canal, and pumping a lot of water from Sabine bringing almost to the back door of various industries. And it was a very successful project, not only for the water users, but also for the aquifers.

MR. OWEN:

Now, if I may have a moment here to bring up a subject. We were talking about the possibility of having existing data available, and I'm familiar with one particular effective program that has been in place in Texas, that's in Harris County and Galveston County, Texas, where there is a large aggregation of chemical and petroleum and other kind of plants. There, this is a program that started some years ago, and it was the land subsidence that was the factor involved. But what happened was a large aqueduct was constructed, and if I'm not mistaken it was done with public funds, bonding.

But my question to Bruce was, is he familiar with that program, and if he is, maybe we can get information from them as to how they went about doing

it, what kind of costs were involved in it, and how effective it's been.

MR. DARLING:

You're talking about the Houston-Galveston Coastal Subsidence District?

MR. OWEN:

Yes.

MR. DARLING:

That's actually a rather prominent district in Texas, for obvious reasons. For those of you who don't know much about that issue, excessive or let's say heavy pumping of groundwater primarily by the city of Houston in that area has caused dewatering of the aquifers and compaction of the confining layers of the aquifers, and over a period of time as these confining layers have begun to de-water themselves, the land surface has subsided many feet. In some cases neighborhoods that were built back in the '60s and '70s have had to be abandoned because they're now under 2-3' of water.

So the Houston-Galveston Coastal Subsidence District was formed by the State of Texas in order to manage the subsidence issue in that area of Texas. Part of what they tried to do is to move as many groundwater users over to surface water as possible in order to minimize the stress on the aquifer.

I can't speak to the issue of funding right now, but I can get all that information for you if you need that. I know many of the people associated with that. So I'd be more than pleased to get that information

for you. But that is a rather important district in Texas because south Texas, of course, is much like southeast Texas. The topography is much like the topography of southern Louisiana. It's at sea level or just slightly above sea level, and there's great concern that subsidence in that area would ruin property values.

One of the factors that motivated them to do something about addressing subsidence was that much of that subsidence was getting perilously close to the NASA center outside of Houston, and NASA was making some grumblings about having to move if the subsidence became an issue in their area. Of course, employing as many people as they do and being as important to the economy of Houston as it is, when they spoke Houston listened, and so did the state, and they realized that it was something that they had to address rather aggressively.

COMMISSIONER GAUTREAUX:

Thank you. I guess what I'd like to see us ultimately develop is, I think there was a pretty clear intent by the Legislature that we have a consistent statewide policy, but with tools that would lend themselves to different areas. So I think it would be nice if we had a set of tools as examples that some areas have used to address their perhaps switching to alternative sources, whatever policies they've implemented. As you're doing in terms of the policies themselves for the states, it might be nice if a component of that were different tools people

have used to manage the resources, whether fees, incentives, et cetera.

MR. DARLING:

Well, it might be instructive in this case to look at the strategies that we developed for each of the regions in Texas to help them address their water, projected water shortage issues. I don't think that other states have been quite as aggressive as Texas has in that regard. I know that they've tried to look ahead and identify areas of shortage, but I haven't identified other states that have gone to the lengths that Texas has to develop strategies for specific industries, for cities, and then to identify the initial engineering cost associated with getting these things off the ground.

COMMISSIONER GAUTREAUX:

I think that would be helpful. Thank you, Bruce. Any more comments on that item, or are we ready to move on to the Outreach Committee? (No response.)

Outreach Committee. Linda?

MS. WALKER:

After several meetings and several months of work, the Outreach Committee has come out with our first report. And as we were not at all clear when we started meeting as the Outreach Committee just exactly what our function was and what it was we were supposed to address, so the first thing we had to do was sit down and think about what was outreach and how did this fit into the larger picture here. So we developed -- we've got a copy of the report that is in

your handout materials. And so the first thing we did was craft a statement that talked about what the goals were and what the objectives were, and we could tell then from there where we needed to go.

In brief there's three -- we had three objectives, is what we narrowed it down to. One was to develop what we would consider models. These are models. They're kind of a road map, what we think would work, not the whole universe of outreach tools, but what we really think would work in Louisiana and what's available. First would be what we want to do between now and the next Legislative session when the comprehensive plan is addressed; who do we need to reach, how do we need to reach them, and with what.

The second large thing -- I'm skipping over here one, would be once a permanent plan is in place, then what do we do to reach the public at large and sustain the outreach effort. And in conjunction with that, the third goal is to identify the sources that are credible that we want to use and that are available already within the state as much as possible. I think we've pretty much -- we have stuck with that.

So the first big section after that is what we call the short-term plan, and that is the part that addresses what would happen between now and when the Legislature meets in 2003. And the first two sections, we summarize the goals again, and we also identify just bullet fashion the tools that we feel like could be used. Now, not everything is in there that could be used. We identify the ones we think

that are feasible to use between now and then. That does not mean that all of them will even get used then. For instance, one of the things that's missing in this whole short-term plan is we did not think it was necessary at this time to talk about addressing a policy to reach school children. This always comes up. It is probably very effective over the long-term, but for the short-term it doesn't have a place here.

Then under the Section C, we get into implementation, the how to. We have three major areas. The first one was, first of all, who is your audience. Target the audience. And so this list grew as we kept having committee meetings, as we identified who were the kinds of people that would need to be reached.

Then Section 2 under that, under implementation, is to identify the sources. This more fully expands the sources of information that would be available. Of course, the websites. And some of this is already underway, but we need to -- it's keeping us focused on what could be done. The websites, we've already seen a good presentation of that this morning.

Second section under that is looking, what kind of written materials, published materials are already out here, and where are the sources that we feel like should be used that everyone would be comfortable with that would perhaps pass muster with the department that is going to implement this.

The third one under that is talking more about developing audience site -- audience or site-specific

materials. You're going to have to -- if we talk about regions of the state, they're going to need different kinds of printed materials talking about things. They're going to need some general Louisiana information. They're also going to need things that are specific to that particular region, and we're going to be using tools like the glossary that the consultants have on their website. Of course, that's a general tool. But under this and in thinking about it in the larger context, we have asked the Department to ask for funding in this coming budget, and whether we get it or not, I don't know, but we could see that there is an absolute need. You can't do handouts without some printing which has some costs. And it may be necessary to hire some people or to contract with universities to put together some of this material so it is crafted to what it ought to be.

We also under that we have got some specific things listed. There is audience-specific materials besides the general brochures or handouts. We would want information sheets we said on the critical areas, and we also see the need, and as this was done I believe in Texas and we saw that this would fit in quite well here in Louisiana, is something called a preference feasibility analysis. This would be a very targeted sort of specialized survey that would be sent out to leaders, elected officials, and any other parties that are directing water efforts in their sections of the state just to actually pin down what would be feasible, what would be workable in their

area. This would, I think, cut through a lot of things for the Commission as they go forward with their planning. This would give you a laser-like tool.

That would fit in with the consultants work in July. We feel like that is something that really needs to be done in July. That's going to take a little bit of budget money to do that. That's going to involve some mailings, and getting the material back in and all.

Then we also would like to have a survey, and we have got two of our committee members working on this, probably what we'll be meeting on next, that would be targeted to the general public to find out where their level of knowledge is; what do we need to be telling them to bring them up to speed, either in the short or long-term, but that needs to be done also, and preferably before the Legislative session. I had a personal experience this last week with someone that told me their idea of surface water was the rain that fell on the street. So, oh, that's where we're starting from? But we need to find out specifically.

Then we also felt like we need to make full use of our university resources, and we have identified some of those. Of course, LSU Ag Center has already been out front and center on working on this, but there are some others.

Public meetings, to start with we have the ones that the consultants have planned. We feel like there are Task Force members or Commission members that

could also help with this, and they need to be identified and have the materials that would help them do this. We need to feel like there are public meetings. We need to be sure that Commission and Task Force people are present at those meetings and available to answer questions. If you aren't there, believe me, the credibility drops to zero. So we need the decision-makers there.

Presentations to interested groups, this goes with -- we already see that underway, and those are those groups that we identified back up in here under No. 1, the target audiences.

The third component on that that's very critical is recognition that all of these activities need to be coordinated presently through the Office of Conservation so that everyone is giving out the same information, and it's focused on what this Commission is trying to accomplish. And it will also be then approved for accuracy. We feel like that is an essential item, and they also would be in charge of any budget monies and funding.

To move on, what do we see has to be done post 2003, post that Legislative session. What we see here is really an expansion of the short-term plan where we add in some of these other components that were not present in the first plan. The long-term strategy would have to be something that is on-going all the time. It is absolutely critical that budget recommendations always contain a portion in there for outreach materials because it has to be chronic. If

you aren't chronically educating the public, you lose it. We also at this time would see a way to get into the -- start to the school programs. This would be the start of that. Perhaps then the development of videos that could be used for public, you know, on TV or presentation or whatever. It would get into the more sophisticated materials for public outreach. We see that happening.

Now, some of the universities that we've identified besides LSU, of course, there's -- Southern University has got a new program going where they would have expertise available, and I know Dr. Namwamba has talked about that. He's very enthused. There's opportunities there. There's opportunities with the University of Louisiana at Lafayette with their students and programs. We've identified that the Loyola University has an Institute of Environmental Outreach education-type materials, and there's a student here today with me from Loyola. They are professionals in doing public outreach at this level. And they also have volunteered, with the help of our student, Miss Kathleen Welch back here, who will have promised they would do us a quick -- I guess a quick and dirty look at our plan for its effectiveness, and maybe make some suggestions along that line. And that's going to be a freebie. I think any in-depth stuff we'd have to contract out, but that's going to be a free look, which I'm very grateful for. I mean, we have a lot of great university people in this state, and we should use

them all. There are probably others that I have not mentioned here. Of course, we have our geological survey and all that are excellent.

The last page is what we think needs to be done absolutely immediately, and some of this is already underway. Of course, the websites, and the websites with links are very important. We have started the articles and press releases. The committee has already identified three more areas they want to see press releases done on, and we have to do that in conjunction with the Department. The preference feasibility analysis that needs to be started, the letters need to be ready to go out in July. Also a survey to the public to determine their knowledge needs. Those are the four priority items that probably would need to be started immediately.

And that's pretty much our report for right now. As I said, the next thing we'll be looking at as a committee would be those survey questions. And I do have an issue that has come up in our committee meetings for discussion. We really need clarification from the Commission on this, and it goes to the jurisdiction and authority that our attorney was talking about awhile ago. As a committee, subcommittee of the Advisory Task Force, we have no authority to do anything other than give y'all our report. We would like to know, I guess I don't know how we would do this, but would the Commission want the subcommittee to work with other -- you know, the Department, et cetera, because they have got people

also, to help maybe in drafting some of these materials or expediting this? I guess we need some official go-ahead, but for us to write something on behalf of the Commission is presumptive without being told that we could do it. Does that make sense? Do you see what we're asking?

COMMISSIONER GAUTREAUX:

Right. First of all, I think, one, congratulations. This is an excellent piece, and I know a lot of people have worked --

MS. WALKER:

There were. There were --

COMMISSIONER GAUTREAUX:

-- long hours on this.

MS. WALKER:

I identified, I think, 35 different groups over the series of meetings that actually attended.

COMMISSIONER GAUTREAUX:

I guess the way the first press release, and I also want to thank Phil Darensbourg from DNR and other people who worked on pulling that article together.

MS. WALKER:

Neil.

COMMISSIONER GAUTREAUX:

Yeah, Neil Melancon, thank you.

MS. WALKER:

And Tim back there.

COMMISSIONER GAUTREAUX:

Tim back there on the Staff. That was an explanatory piece in terms of the history of the

Commission, and I felt comfortable taking it to the Ground Water Staff and then reviewing it and preparing it for release through the Department. Now, I think if we were purporting to represent a Commission position on something, that would be something that the whole Commission would have to look at and comment on. In terms of presenting facts, status reports, et cetera, we'd like to show drafts, but I think that's a different thing than taking certain positions. So I think if we continue to work --

MS. WALKER:

We didn't want to take positions at all.

COMMISSIONER GAUTREAUX:

Right, but I think if the rest of the Commission is comfortable with the way that worked, we're certainly open to comments. I think the article went around. We asked for comments. I don't know if that's giving you the guidance, but I think if we continue to do that, if you put forth your articles, we'll distribute for the comments but we'll work with Staff in terms of preserving accuracy and we review them and put them out through the Department, I think that's sufficient.

MS. WALKER:

We'll need reports or facts from the Staff.

COMMISSIONER GAUTREAUX:

Right. And the Staff certainly has and will continue to work with you in support of that.

MS. WALKER:

But realizing that the Staff also has other work

to do, and we do have some expertise within the committee to do some of that.

COMMISSIONER GAUTREAUX:

Right, and you've certainly been self starters, and I hope that continues because your resources are much appreciated.

COMMISSIONER CEFALU:

This committee seems like it started off to save the water, but I think I'd like to nominate them to save the world, because this is a lot more than I expected to see come out of a committee. It's an excellent job. I think we need to follow-up on it as best we can.

MS. WALKER:

As I said, this is a working model. It's what we think is woodwork, and it's up to the Commission to take the pieces of it they want to -- can feel like they can implement and do, but we didn't want to say -- we didn't want -- we actually wanted to make some specifics and not be too general.

COMMISSIONER CEFALU:

I want to make sure I represent -- the people I represent, I want to make sure I have some input on it, especially how you're going to survey or try to disseminate the information, because we have a lot of associations and organizations that are available that do that on a regular basis through quarterly reports and things of that nature. So we can always use that. We want to make sure we use those things that are available so it doesn't cost us any money, number one.

MS. WALKER:

It's pretty hard to get around not paying for postage.

COMMISSIONER CEFALU:

These people are already sending out an article, so if we just give them the information, they'll put it in their fliers or whatever the information they're sending out, and it doesn't cost us anything for postage.

MS. WALKER:

Yes, we want to hit those kind of groups, definitely.

COMMISSIONER CEFALU:

Right. We cover all of those and then what's left, we pay for.

COMMISSIONER GAUTREAUX:

What I would like to suggest is that just as we mentioned to Mr. Owen, for this to be a Task Force report, really the whole Task Force should have an opportunity to vote on it. However, that does not preclude us from starting to get information concerning what kind of survey, preliminary costs, and so forth. So we won't just stop in the water before the next meeting, but I think the Task Force does need to endorse the report.

MS. WALKER:

Thank you.

COMMISSIONER GAUTREAUX:

I know you'll welcome suggestions from Commissioner members as well. Thanks, Linda, and

congratulations, Outreach Group.

Surface and Ground Water and Technical, usually that's a combo. I know Charlie was unable to be with us here today. Is there any -- oh, there you are, John. Thank you.

MR. LOVELACE:

John Lovelace, US Geological Survey filling in for Charlie Demas. The combined committee met last week. The primary focus of it was to review the data contacts that the consultant team has been making over the past few months. They've been contacting various state and federal agencies, as well as universities, some interjurisdictional agencies, and a host of other private and public entities to find out what sort of data, pertinent groundwater data is out there and available.

So they made a presentation, briefly ran through the list that they had describing what sort of data and information they were finding. The whole purpose was to really have the technical group review it and make sure there weren't any groups out there, entities that they were overlooking. We really didn't see any. They seem to be doing a very thorough job with it. That's it.

COMMISSIONER GAUTREAUX:

Good. Any questions for John?

(No response.)

Thank you, John. That concludes our Advisory Task Force Committee Reports. The next item is Old Business, and I'll ask Tony Duplechin to address this

issue, but essentially what we wanted to do, in an abundance of caution, because some folks reading the last agenda may have not been as clear on the items on which the Commission voted in terms of the registration issue, we wanted to just have it out on the agenda again and just confirm that vote. So, Tony, if you'll --

MR. DUPLECHIN:

Yes. As Karen said, the Commission did hear our recommendations last month and I'll restate them briefly shortly, but we just wanted to make sure that the proper procedures were followed for having a Commission vote. Basically, the Staff recommends to the Commission that the owners of domestic and replacement wells not be required to submit well information to the Commissioner of Conservation. So this is what was brought up last month.

COMMISSIONER GAUTREAUX:

We did -- the item was listed on the agenda as I think registration or data for registration, and there was just some people -- well, it was just brought up as a potential issue, would someone looking at the agenda have understood the item. So we just want a --

MR. DUPLECHIN:

More formal.

COMMISSIONER GAUTREAUX:

And remember, I just want to mention for those that may have not been at the other meeting, that it's no less formal, it's just a little more elaboration or clarification, that we're still getting the

information from DOTD. The information is being collected, but that information will come from DOTD to the Conservation Staff. If you'd like to make that --

COMMISSIONER CEFALU:

I'll offer the motion.

COMMISSIONER BOLOURCHI:

I second that motion.

COMMISSIONER GAUTREAUX:

Any discussion?

COMMISSIONER CEFALU:

Would you read it for the record one more time, the motion?

MR. DUPLECHIN:

"Owners of domestic and replacement wells will not be required to submit well information to the Commissioner of Conservation."

COMMISSIONER CEFALU:

That's my motion.

COMMISSIONER GAUTREAUX:

And it was seconded. Discussion?

(No response.)

All in favor? (Aye.)

Any opposed? (No response.)

Thank you.

MR. DUPLECHIN:

Second item of old business is consideration of extension of the emergency rule. I believe in your packets there is either a copy or just a copy of the front sheet of the proposed language for the extension of the emergency rule. The top left says, Declaration

of Emergency. The current rule expires on March 28th, and if the Commission so wishes by voting on this rule, it will become effective on March 29th and be effective for another 120 days. The only differences in this rule, other than the dates, are, we believe that the Office of the State Register is going to move it from Title 70, Transportation, to Title 33, Environmental Quality. So there are some parts here where it just says to be determined by Office of State Register.

COMMISSIONER GAUTREAUX:

Any questions on that item? Ms. Zaunbrecher?

COMMISSIONER ZAUNBRECHER:

This copy says becomes effective on April 1.

MR. DUPLECHIN:

After we made all those copies we recounted the days one more time and realized that there was some confusion with it falling on the Easter weekend as to when the new date should be.

COMMISSIONER ZAUNBRECHER:

So you've moved it to --

MR. DUPLECHIN:

Moved it to March 29th.

COMMISSIONER GAUTREAUX:

Any other questions or discussion?

(No response.)

Do we have a motion for approving the revised --

COMMISSIONER ZAUNBRECHER:

I so move.

COMMISSIONER GAUTREAUX:

Linda Zaunbrecher. Do we have a second?

COMMISSIONER BAHR:

Second.

COMMISSIONER GAUTREAUX:

Dr. Bahr. Any discussion?

(No response.)

All in favor? (Aye.)

Opposed? (No response.)

Thank you. The next item, Consideration of the Proposed Permanent Rule.

MR. DUPLECHIN:

Also in your packets is a copy of the proposed permanent rule, which is almost exactly the same as the emergency rule that was just voted to be extended. The preamble has changed a little bit since this is not stated as a declaration of emergency. I don't have the timetable. There's a timetable in your packets that gives some important dates for the progression of this through the process. As I said earlier, I brought the fiscal and economic impact statement over to the Legislature fiscal office this morning, and if the Commission goes ahead and approves this permanent rule, then we will submit notice of intent to the State Register so that it can be published in the April 20th edition of the "Louisiana Register." Public hearing would be held on May 29th, which I think we'll get into later about scheduling of the next Commission meeting. There are some other dates that are set by Division of Administration, and then the final rule would be published on July 20 in

the "Register." Once again, these rules are only concerned with the conduct of hearings for applications for critical groundwater areas.

COMMISSIONER GAUTREAUX:

Any questions or comments for Tony?

(No response.)

Do we have a motion for approval?

COMMISSIONER SPICER:

I make a motion to approve.

COMMISSIONER GAUTREAUX:

Second?

COMMISSIONER BOUDREAUX:

Second.

COMMISSIONER GAUTREAUX:

Phil Boudreaux. Any discussion?

(No response.)

All in favor? (Aye.)

Any opposed? (No response.)

Thank you. Our next item is public comments, and I guess we'll just have a large public. Usually we separate Commission and Task Force, but we'll just be public today. So anyone that has -- anyone have any comments or questions? Mr. Owen?

MR. OWEN:

Karen, I wonder if I'm understanding correctly, but I'd like to raise a procedural question. My name is Eugene Owen, and I have a question regarding procedure. In the event of a replacement well, and I believe that this would be covered in the permanent rule that you just adopted, if I understood the

clarification that you just undertook, it says that no -- for a replacement well no description is required of the well. Is that what I'm understanding?

To get to the point, one of the things that we are concerned about is in an area of multiple aquifers, such as the Baton Rouge area, if we have an aquifer that is declared critical while others are not declared critical, and then if we have without prior notice people rotating out with a so-called replacement well out of one critical aquifer into other aquifers, this carries with it the potential of sort of a cascading impact where we fail one aquifer after the other after the other. And my only point in raising this in connection with something that I'm probably misunderstanding is I think that in the case of a replacement well, we need to have a full description of the replacement well if the well is not drilled to the same aquifer that it is intended to replace.

MR. DUPLECHIN:

The way the Commission had accepted a definition of a replacement well was a well that went into the same water-bearing strata as the well that it was replacing and within a 1,000' radius. So if it went into a different aquifer, then it would not classify as a replacement well.

MR. OWEN:

That's fully answered. Thank you.

COMMISSIONER GAUTREAUX:

Thank you. Any other questions or comments?

(No response.)

We'll move on to the next item then, the schedule for the next meeting. I think we discussed potential dates last time, what was the next date we discussed? Was it May 1st? May 15th and the 29th. So we're still on that schedule, and the reason being we're going to have a presentation by C.H. Fenstermaker on the 15th, and then we'll have an opportunity to have another presentation after the Task Force and Commission members have had an opportunity to review the report on the 29th.

We'll meet here on the 15th. We'll have our usual 1:30. And what I'd recommend, unless we think the meeting is going to be too lengthy, or the Task Force committees need to -- well, we need to have a separate meeting next time for the Task Force to discuss those other issues. So we'll have our normal meeting setup on the 15th in the morning for the Task Force and the Commission in the afternoon. And we will locate the Task Force meeting room, and have the Commission meeting here. Okay? Thank you all. Good meeting. Do we need a motion to adjourn?

COMMISSIONER BOLOURCHI:

So moved.

COMMISSIONER CEFALU:

Second.

CERTIFICATE

I, SUZETTE M. MAGEE, Certified Court Reporter, do hereby certify that the foregoing meeting was held on March 20, 2002, in the Conservation Hearing Room, Baton Rouge, Louisiana; that I did report the proceedings thereof; that the foregoing pages, numbered 1 through 85, inclusive, constitute a true and correct transcript of the proceedings thereof.

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SUZETTE M. MAGEE, CCR #93079

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